

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 5:11-cr-00602-GTS

v.

JOSEPH JENKINS,

Defendant's Affidavit

Defendant.

Joseph Jenkins deposes and states;

1. I am the defendant herein. As such, I am fully familiar with the facts and circumstances as depicted herein.

2. On or about May 24, 2009 I was stopped at a border crossing while attempting to enter the country of Canada.

3. During the course of the stop I was physically detained in a "secondary area" and not permitted to leave. It have since been advised that this constitutes an arrest as I was forbidden to leave the area.

4. The Canadian Border Patrol officers searched my car.

5. Within the car they discovered my computers and an officer asked me questions about the content of the computers.

6. I had not been advised of my rights at this time and, as such, I had no idea whether I was in legal trouble or if had the right not to answer.

7. I gave an innocuous response to the officer only because I was intimidated and unaware of my rights. Had I known that I had the right to refuse to speak I would have remained silent.

8. My attorney has since informed me that my statements will be used against me at trial unless the Court directs that they be suppressed.

9. Furthermore, I have been made aware by my attorney that the prosecutor intends to assert that I fled from Canada rather than to face trial.

10. In fact, I appeared for trial as required on September 13, 2010.

11. However, my attorney, Mr. Edgely, informed me that if I were simply not to return to Canada to face trial nothing would happen to me.

12. More specifically, my attorney stated that if I simply went home the matter would be forgotten.

13. Wanting simply to put this behind me, I simply took my attorney's advice and returned to my home in Geneva, N.Y.

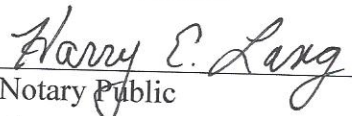
14. Therefore, this affiant respectfully requests that the Court suppress my pre-miranda statements made before the Canadian Border Patrol agents as it is in violation of both rights under both the Fifth and Sixth Amendment to the United States Constitution.

15. As well, this affiant respectfully requests that the Court suppress any allegations that I fled Canada, evaded the Canadian authorities or that a bench warrant was issued as a result of my conduct as my actions were taken under the erroneous and unethical advice of counsel in direct violation of the *Strickland* doctrine.

Dated: October 18, 2012

  
Joseph Jenkins

Sworn before me this 18 day  
of October, 2012.

  
Notary Public

HARRY E. LANG  
Notary Public, State of New York  
No. 01LA6077669  
Qualified in Cayuga County  
Commission Expires July 15 2014